

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

MISTY VANZANDT, et al.,)	
)	
Plaintiffs,)	
)	
vs.)	Case No. CIV-06-809-F
)	
STATE OF OKLAHOMA, ex rel.)	
OKLAHOMA DEPARTMENT OF)	
HUMAN SERVICES, et al.,)	
)	
Defendants.)	

ORDER

The “Application to Stay Proceedings Pending Appeal and Brief in Support of Defendants Howard H. Hendrick, Mary Williams, Ruby James, Joy Walker, and Jan Polasek” (doc. no. 28), filed on December 18, 2006, is before the court. Although any objection to the application was due by January 5, 2007, no party has objected or requested an extension of time within which to object. Accordingly, the application is ready for determination.

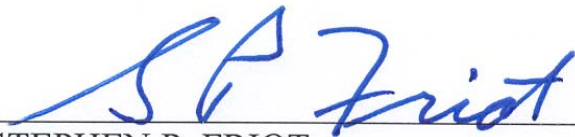
The application asks the court to stay this action until the circuit court determines the moving defendants’ appeal of the undersigned’s order denying qualified immunity. Qualified immunity is an entitlement not to stand trial or face the other burdens of litigation. Saucier v. Katz, 533 U.S. 194, 2000-01. The privilege is effectively lost if a case is erroneously permitted to go to trial. *Id.*

The application clearly asks the court to stay “all further proceedings” until such time as the appeal is decided. The court observes that some of the claims that survived the motion to dismiss are not before the Tenth Circuit as a result of the appeal of the denial of qualified immunity. However, because the court received

no expression from the plaintiffs as to whether the case could or should proceed as to those claims, the court need not, and does not, make any separate determination as to whether the case might have proceeded as to the still-pending claims that are not involved in the appeal.

For these reasons, having carefully considered the application and with there being no objection, the application is **GRANTED**. All proceedings in this case are hereby **STAYED** until the pending appeal from this court's order of November 20, 2006 (doc. no. 24) has been decided by the United States Court of Appeals for the Tenth Circuit. When the circuit issues its decision, the stay will be automatically lifted. The parties are **DIRECTED** to notify the court at that time so that a new schedule can be entered.

IT IS SO ORDERED this 9th day of January, 2007.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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